

PCB SOIL SAMPLE PLAN
HARRIS-THOMAS SITE
DAYTON, MONTGOMERY COUNTY, OHIO

November 8, 2012

The Harris-Thomas (HT) Site (the Site) is located at 1400 East 1st Street in Dayton, Montgomery County, Ohio (see Attachment 1). The Site is located in a mixed residential, commercial and industrial area. The Site is bordered to the north by East 1st Street, beyond which is a vacant lot, to the east by Schumacher Crane Rental and BBC Converters, to the south by East 2nd Street, beyond which are Service Master Clean/Angler Construction and Patented Printing, and to the west by Harshman Street, beyond which is First Street Recycling (see Attachment 2). The Site is occupied by seven separate, mostly one-story buildings (one composed of approximately eight additions) of various construction. The buildings encompass approximately 30,000 square feet of area, and are located on one parcel totaling approximately 2.5 acres. Commercial and industrial businesses are located within 500 feet of the Site, and the closest residences are located within 1,000 feet south of the Site. The Mad River, which discharges into the Great Miami River, is located approximately 1/3-mile northwest of the Site.

SITE HISTORY

Historic records indicate that the Site has been occupied by an oil distributor (1898), metal foundries (early 1900s), boiler makers (early 1900s), painting contractors (1960s), a metal treating company (1970s) and metal forging companies (1920s to 2006). From at least 1960 to 1998, the Harris Thomas Drop Forge Company (HTDFC) owned the Site. In 1998, the HTDFC transferred the Site property to Harris-Thomas Industries, Inc., which used the Site to manufacture steel parts for the automotive and other industries.

On February 2, 2012, the Dayton Fire Department (DFD) and the Ohio Environmental Protection Agency (Ohio EPA) investigated a report of oil leaking from the facility onto a City of Dayton right-of-way sidewalk along Harshman Street. Site trespassing and vandalism (from “scrappers”) resulted in the release of transformer oil (potentially containing polychlorinated biphenyls [PCB]) to the Area G building, its roof, and the adjacent sidewalk. The DFD and Ohio EPA inspected the building and not only observed the oil released from the transformers on the roof, but also observed numerous abandoned 55-gallon drums, containers and pits containing unknown liquids. On

February 3 and 6, 2012 the Ohio EPA and DFD, respectively, formally requested assistance from the U.S. EPA to determine if the Site meets the criteria for a time-critical removal action.

On March 19, 2012, DFD, Ohio EPA and the City of Dayton’s Division of Environmental Management responded to another transformer oil release at the Site. Trespassers had again accessed the property and climbed onto the roof of the Area G Building. The transformer cage had been cut and removed, and one of the four remaining transformers was tipped over, drained of its oil and stolen by “scrappers” to access the copper wiring inside the unit.

On February 10 and March 7, 2012, U.S. EPA conducted a site assessment at the HT Site and documented the presence of approximately 25 55-gallon drums; approximately 25 small containers (having a volume of 5 gallons or less); 10 pits containing unknown liquids; one compressed gas cylinder. During the site assessment U.S. EPA collected 7 liquid waste samples and 14 solid waste samples containers, floor sweepings, wall solids and waste piles at the Site. Based on analytical results for samples collected during the site assessment, the containers contain ignitable, corrosive and toxic wastes. In addition, widespread heavy metal contamination (chromium and lead) in the floor sweepings, waste piles and wall solids at the Site.

U.S. EPA initiated a removal action on October 23, 2012 to mitigate threats posed by the presence of hazardous substances at the Site. As part of the removal action, the remaining onsite transformers were removed from the Site by the Dayton Power and Light Company (DPL) on November 4, 2012.

FORMER TRANSFORMER AREA PCB SOIL SAMPLING PLAN

There are three concrete pads formerly used to support transformers. Two of the concrete pads are located along the south wall of Building D and the third concrete pad is along the east wall of Building E (see Attachments 3 and 4). Significant staining has been observed around all three concrete pads. Reports have indicated the transformers had been drained by “scrappers” in preparation for future copper removal. The PCB concentration of the oil prior to draining is unknown. U.S. EPA will conduct composite soil sampling to determine if the stained soil meets the PCB disposal criteria outline in the Toxic Substances Control Act (TSCA) and the PCB regulations found at 40 CFR 761.

START will collect a 5-point composite soil sample (totaling 4 ounces) from the stained soil surrounding the three concrete pads (see Attachment 3). The composite soil sample will be sent to a commercial laboratory for total PCB analyses. If laboratory analytical results show a PCB concentration greater than 50 mg/kg, the soil will be classified as PCB regulated waste and transported offsite for disposal in accordance with TSCA.

SOIL SAMPLING AREA PHOTOGRAPHS

HT-PCB1-110812



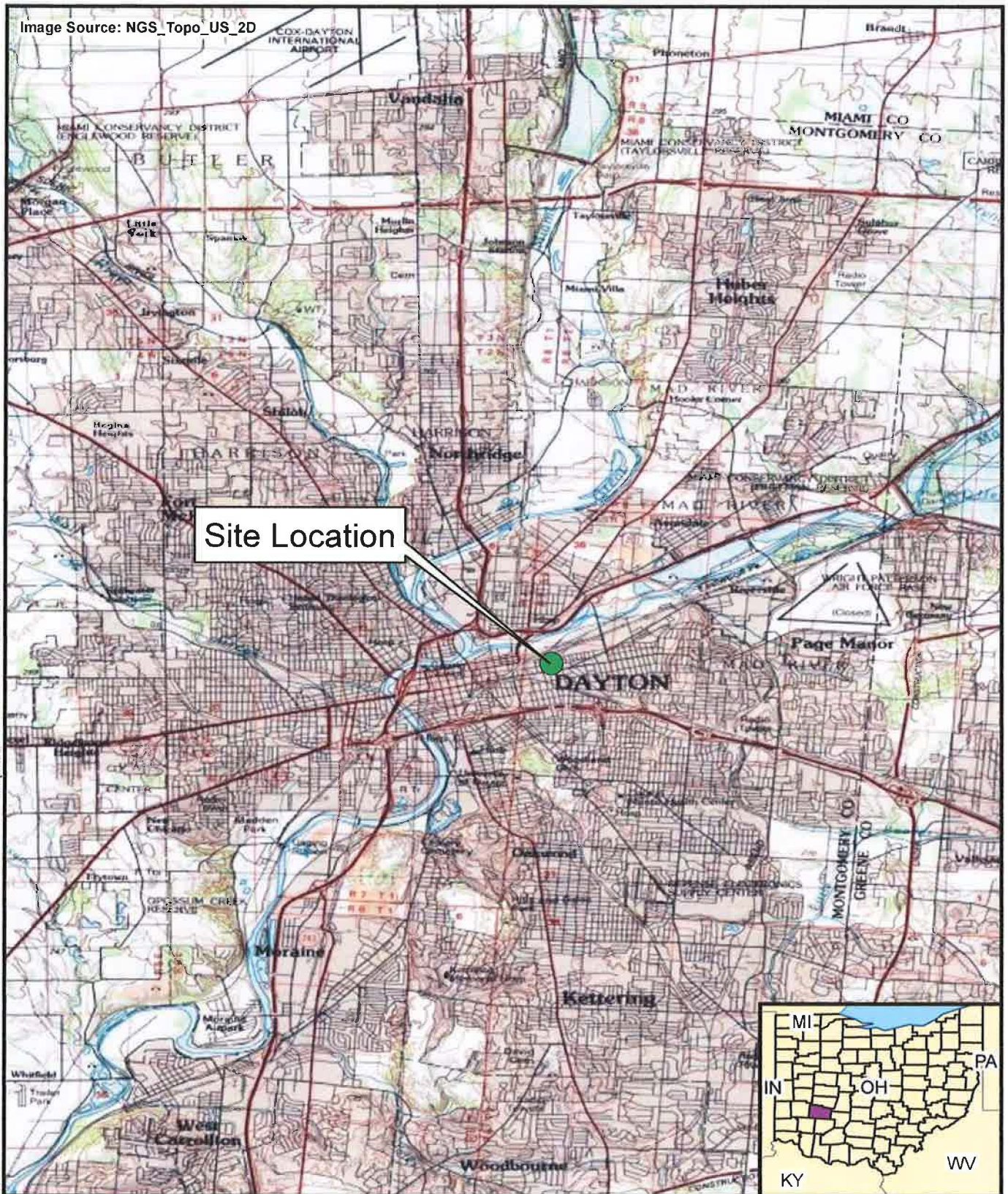
HT-PCB2-110812 and HT-PCB2Dup-110812



HT-PCB3-110812



Image Source: NGS_Topo_US_2D



FILE: C:\START Project Files\Harris-Thomas\GIS\mxd\Removal\Attachment 1 Site Location Map.mxd 11/8/2012 kirkland



Prepared for:
U.S. EPA REGION V

Contract No.: EP-S5-06-04
TDD: S05-0001-1204-020
DCN: 1833-XX-XXXX



Prepared By:
**WESTON
SOLUTIONS, INC**

4710-A Interstate Drive
Cincinnati, Ohio 45246

Attachment 1
Site Location Map
Harris-Thomas Industries Site
Dayton, Montgomery County, Ohio

Image Source: Ohio EPA



E 1ST ST

CRANE ST

HARSHMAN ST

Legend

-  A - Tool Crib
-  B - Die Forging
-  C - Storage Shed
-  D - Steel Stock
-  E - Forge Shop
-  F - Cleaning Room
-  G - Die Shop / Shipping
-  H - Locker Room
-  I - Press Shop
-  J - Offices
-  Shed
-  Former Transformer
-  Site Boundary

0 70
Feet



Prepared for:
U.S. EPA REGION V

Contract No.: EP-S5-06-04
TDD: S05-0001-1204-020
DCN: 1833-XX-XXXX



Prepared By:
WESTON SOLUTIONS, INC

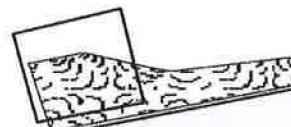
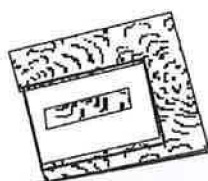
4710-A Interstate Drive
Cincinnati, Ohio 45246

Attachment 2
Site Layout Map
Harris-Thomas Industries Site
Dayton, Montgomery County, Ohio

FILE: C:\START Project Files\Harris-Thomas\GIS\mxd\Removal\Attachment 2 Site Layout Map.mxd 11/8/2012 kirklanr

FILE: C:\START Project Files\Harris-Thomas\GIS\mxd\Removal\Attachment 3 Former Transformer Pad Map - Building D.mxd 11/8/2012 kindanr

Parking Lot Area



Building D

Legend



Visible Soil Staining



Building D



Former Transformer Pad

0 10
Feet



Prepared for:
U.S. EPA REGION V

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4710-A Interstate Drive
Cincinnati, Ohio 45246

Attachment 3
Site Layout Map
Harris-Thomas Industries Site
Dayton, Montgomery County, Ohio

FILE: C:\START Project Files\Harris-Thomas\GIS\mxd\Removal\Attachment 4 Former Transformer Pad Map - Building E.mxd 11/8/2012 kirklenr

Parking Lot Area

Building E

Legend

-  Visible Soil Staining
-  Former Transformer Pad
-  Building E

0 10
Feet



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Prepared By:
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SOLUTIONS, INC**

4710-A Interstate Drive
Cincinnati, Ohio 45246

Attachment 4
Site Layout Map
Harris-Thomas Industries Site
Dayton, Montgomery County, Ohio

5.3.9 Prior Reports

Ten previous reports were provided to ATC by the User. Each report is cited below, with a brief synopsis of the findings.

Bowser Morner, "Soil Study for a Proposed Die Forge Machine Foundation, Harris-Thomas Drop Forge Company, First Street, Dayton, Ohio," prepared for Craig Martin Construction Company, Inc., Report No. 29897-488-285, dated April 22, 1988.

Two geotechnical borings were installed to 31.5 feet in an existing building (die forging bldg) in the area of a proposed die forge machine foundation. Soil consists of 7-12 feet of fill including black foundry sand, sand and gravel, brick fragments and slag. Underlying material consists of silt with clay, sand and gravel interbedded with sand and gravel. Groundwater was encountered at depths of 16-17 feet.

Bowser Morner, "Preliminary Hydrogeological Investigation," prepared for Harris-Thomas Drop Forge Co., Report No. 50573-189-767, dated January 3, 1989.

The purpose of the investigation was to characterize hydrogeologic conditions including identification of geologic materials, determine the stratigraphic sequence and groundwater flow direction and estimate the rate of flow. The characterization was based on three sets of previous borings including those from the above-referenced April 22, 1988 report. Geologic material consists of surficial fill including cinders, foundry sand, silt, sand, gravel, and clay. Given that no wells were installed, groundwater conditions were inferred not measured directly. Silt layers are apparently confined to the east side of property.

Bowser Morner, "Status of Environmental Investigations, Harris-Thomas Drop Forge Company, Dayton, Ohio," prepared for Harris-Thomas Drop Forge Co., Report No. 50573-990-704-R, dated September 4, 1990.

Two borings were installed from 16 to 23.5 feet in possible source areas of petroleum impact on-site, i.e., between the heating oil USTs and a retaining wall located east of the steel stock building. An on-site rail spur was located at the bottom of the retaining wall. Two samples from each boring were analyzed for total petroleum hydrocarbons (TPH). Two samples from the bottom of one boring (SB-3) were also analyzed for benzene, toluene, ethylbenzene, and xylene (BTEX). The highest TPH concentration was 1,300 mg/kg. Detected BTEX concentrations were 0.037 mg/kg, 0.043 mg/kg, 0.22 mg/kg, and 1.2 mg/kg, respectively. The report states that hydrocarbons have been observed seeping from the retaining wall.

The Payne Firm, "ASTM Phase I Environmental Site Assessment, The Harris-Thomas Drop Forge Property, 1400 East First Street, Dayton, Ohio," Project No. 0659.01, dated August 5, 1997.

The Phase I ESA was based on a site visit, interviews with site personnel, review of historical sources, and regulatory agency databases. The Site was in operation as a drop forge facility by Harris-Thomas at the time of the investigation. Operations at the site included die production, bar stock shearing, stock heating, forging, coining and cleaning of parts. Equipment included die forgers, hydraulic and reciprocating presses, and electric induction furnaces.

Historic information indicated that current operations were initiated in 1924. The south side of the site was residential until about 1981. A canal existed between the residential area and the remainder of the site until filled between 1918 and 1950. Before 1924, the Site was occupied by the American Casting Foundry and the Advance Foundry Company. The Mutual Oil Company occupied the Site in 1898. The Payne Firm did not identify uses prior to 1898. The Payne Firm noted that a building occupied by Certified Heat Treating until about 1980 was formerly located north of the die forger building and a storage building demolished in 1974 was located east of the die forger building.

The Payne Firm identified 52 facilities during regulatory database review. The Site was listed as a RCRA small quantity hazardous waste generator without recorded violations. The Payne Firm did not believe that any of the listed facilities were likely to impact the Site.

The following hazardous materials were used at the Site in 1997: parts washing solvents used at four stations around the facility, cooling tower treatment fluids, lubricants/hydraulic oils stored in drums (die forger, die shop, press shop, forge shop), kerosene for heaters stored in aboveground storage tanks (ASTs), and dielectric fluids stored in drums in the die shop. Interviews with on-site personnel indicated that 3 USTs located in the vicinity of the forge shop formerly stored heating oil for fueling slot furnaces and a boiler. The heating oil USTs were filled with concrete and abandoned in place in 1989. A former gasoline UST (450-gallons) was located west of the former Certified Heat Treating building in the 1960s/1970s and was taken out of service in 1980 and removed in 1986. The gasoline UST had been found to be leaking into a storm sewer. Five ASTs were present at the Site in 1997. Two ASTs located in the steel yard/craneway area contained kerosene for fueling space heaters. Two ASTs were used to store water for the cooling towers. One AST in the die shop was used to store dielectric fluid. The Payne Firm reported that five pad-mounted transformers and 31 capacitors were present at the facility. On-site personnel reported to The Payne Firm that the fluids of the transformers and capacitors were tested in 1993 and found to be "non-PCB." Hydraulic oil and dielectric fluids used on site were also reported to be "non-PCB." Solid waste generated in 1997 were listed as domestic wastes and scrap metal. An oil-water separator associated with on-site air compressors was observed by The Payne Firm in the die forger building. The water was discharged to the public sewer and the oil removed off-site for disposal. Two dry wells used to drain surface storm water were reported on-site in 1997: one located at the west end of the craneway and one located north of the USTs located adjacent to the forge shop. The later was also identified as a possible catch basin. Payne Firm personnel noted soil staining throughout the facility.

Subsurface investigation of the Site was reportedly initiated in 1988 when an oil spill along the Mad River was traced to the facility by the Ohio EPA. According to The Payne Firm, a 1989 report prepared by Bowser Morner concluded that soil and groundwater TPH impact was generally restricted to an area around MW-3 (east of the die forger) and east towards a former rail spur. The source of impact was given as surface spills or perhaps leaking heating oil USTs. On-site personnel reported to The Payne Firm that in March 1991 an 8' by 4' by 2' deep area of soil (the "sump") was excavated along the former rail spur to intercept hydrocarbon seepage. Excavated soil was reportedly disposed off-site in 1991 by Rumpke. The sump was backfilled in 1996 during construction of an access drive on top of the rail spur. Original plans to pump resulting sump water to an oil-water separator apparently were not implemented. No additional information regarding the sump or additional environmental activity at the site between 1991 and 1997 was provided.

The Payne Firm identified the following recognized environmental conditions: i) oil staining at various locations of the facility, ii) soil and groundwater petroleum impact associated with former heating oil USTs on the east-central part of the Site, iii) former sump at the rail spur, iv) catch basin/dry well located adjacent to heating oil USTs, v) dry well located in craneway, and vi) a former gasoline UST. The Payne Firm recommended further environmental investigation.

Site conditions and overall layout as described by The Payne Firm in 1997 were approximately the same as those seen during ATC's reconnaissance. Most differences noted are due to the fact that the facility has been closed and vacated and the majority of equipment and materials removed. In addition, the two dry wells and the oil-water separator were not observed by ATC.

The Payne Firm, "Summary of Phase II Activities, The Harris-Thomas Drop Forge Company, Dayton, Ohio," prepared for Coolidge, Wall, Womsley and Lombard, Project No. 0279.54.02, January 9, 1998.

The Payne Firm sampled groundwater from four pre-existing monitoring wells (MW-1, -3, -4, and -5). At the time of sampling, groundwater flow was to the northeast. A thin layer of free phase petroleum product (1/8th inch) was noted in MW-3. Groundwater samples were analyzed for BTEX and TPH (except MW-1 which had insufficient volume for TPH analysis). No BTEX was detected in MW-1, -4, or -5. No TPH was detected in MW-4 or -5. Relatively low concentrations of BTEX (0.004 mg/kg, 0.006 mg/kg, 0.013 mg/kg, and 0.032 mg/kg, respectively) and TPH (6.2 mg/kg) were detected in MW-3. The Payne Firm also investigated the catch basin/dry well located adjacent to the former USTs. The structure turned out to be a catch basin that drains northward to the Dayton public storm system. Between October 22, 1997, and January 5, 1998, bailed free product out of MW-3 on a near daily basis. Bailing appeared to at least temporarily reduce the thickness of free product in the well to a thin residual film. It has been noted that in the 1997 Phase I report, The Payne firm reported a former gasoline UST located west of a former on-site building. In the 1998 report, the UST is shown to be east of the same building. The Payne Firm recommended further product recovery from MW-3 and a reevaluation of groundwater conditions after a period of approximately 60 to 120 days.

The Payne Firm, "Environmental Compliance Audit, The Harris-Thomas Drop Forge Company, Dayton, Ohio, (Draft)" prepared for Coolidge, Wall, Womsley and Lombard, Project No. 0279.53, January 20, 1998.

The compliance audit indicated that while Harris-Thomas seemed to be general compliance with most environmental regulations, several areas of non-compliance were identified. Areas of concern to the present study involve the release of petroleum oils to surface pavement due to poor or improper storage of new and used oil drums in areas such as the press room, maintenance, tool crib, die forger, shear room, forge room and storage barn. The Payne Firm also noted that collection drums for blowdown from the die forger machines were located outside the building and frequently overfilled leading to oil saturated soil surrounding these drums. Payne recommended cleaning up soils and pavement stains associated with the drum storage areas.

Quantum Environmental, Inc., letter to Stonebridge Industries, Inc., "Preliminary Results Summary - Supplemental Phase II Subsurface Investigation, Harris-Thomas Drop Forge, Inc. Site in Dayton, Ohio," dated February 24, 1998.

Ten borings (P1-P10) and two borings converted to permanent monitoring wells (MW-2 and MW-6) were installed on-site in February 1998 by Quantum Environmental, Inc. (Quantum). Seven of the borings were converted into temporary wells. Boring depths were not reported. Quantum encountered surficial fill material overlying interbedded silt, silt with clay, sand and gravel, and poorly sorted silt, sand and gravel layers. Quantum concluded that no perched groundwater zones were present in the area of study.

Free product was encountered in wells located north and northeast (i.e., downgradient) of the former fuel oil USTs. Groundwater flow at the time of the study was toward the northeast at a gradient of approximately 0.0106 ft/ft. Soil and groundwater samples were analyzed for volatile organic compounds (VOCs) and semi-volatile organic compounds (SVOCs). VOCs detected in soils were restricted to low concentrations ethylbenzene and xylenes in four borings. Several SVOCs were detected in various borings across the site. Quantum noted that the concentrations of SVOCs appeared to decrease with depth. Only benzene was detected in groundwater above the MCL (maximum contaminant level). SVOCs were detected in four wells, all downgradient of the apparent UST source area. Quantum also noted that sample results confirmed at least one area of surficial spillage of oil along the former rail spur. Impact from the spill did not, however, appear to contribute to deeper groundwater contamination. Quantum was waiting on new action levels for SVOCs from the Ohio EPA before commenting on the seriousness of impact to soil and groundwater for these compounds.

Quantum Environmental, Inc., letter to The Payne Firm, Inc., "Preliminary Results Summary - Supplemental Phase II Subsurface Investigation, Harris-Thomas Drop Forge, Inc. Site in Dayton, Ohio," dated March 5, 1998.

In response to written questions posed by the Payne Firm regarding the Preliminary Results Summary of February 24, 1998, Quantum indicated that the free product thickness in MW-6 (located in the parking lot of the current Schumacher Crane Rental facility) was approximately 6 to 12 inches based on recovery from a bailer.

The Payne Firm, Inc., draft letter to Coolidge, Wall, Womsley and Lombard, "Supplemental Phase II Investigation, The Harris-Thomas Drop Forge Company, Project No. 0279.54.03," dated March 24, 1998.

The Payne Firm conducted three tasks to supplement information obtained by Quantum in February 1998: i) measure product thickness in MW-6 and conduct free product recovery, ii) install a deep boring to 32 feet to determine if groundwater at the site is perched, and iii) install a permanent monitoring well at the location furthest from the source area where free product was reportedly detected by Quantum. Each of these locations are on property that was sold by Harris-Thomas and currently used as parking by Schumacher Crane Rental. Using an oil-water interface probe, no free product was detected in MW-6. Bailing of the well produced a few globules of apparent product, a sheen and a strong petroleum odor. Other on-site wells, including MW-3 which had had free product in the past, were not found to have measurable free product. Based on the results of the 32-foot boring, The Payne Firm concluded that no perched groundwater zone was present at the Site. A 20-foot well (MW-7) with ten feet of screen was installed downgradient of the 32-foot boring. No free product was detected in the well. BTEX and polynuclear aromatic hydrocarbon (PAH) analysis detected xylenes (0.014 mg/L) but no benzene, ethylbenzene, toluene, or PAHs. The xylene concentration was below the action level. The Payne Firm offered three options to address site conditions: i) no action/monitoring, ii) pump and treat, and iii) enhanced biodegradation.

The Payne Firm, Inc., letter to BHR-Ohio Corporation, "Ground Water Sampling Results, Enhanced Bioremediation, Harris-Thomas Industries, Inc. Site, Project No. 0709.01," dated December 21, 1998.

The Payne Firm indicated that an enhanced bioremediation system consisting of four passive soil aeration points and ten low-flow groundwater aeration points was installed at the Site. Three wells downgradient of source area (MW-3, -6 and -7) were sampled and analyzed for BTEX during December 1998. Wells MW-6 and MW-7 showed lower concentrations of xylenes over previous sampling events. Sample results from MW-3 (nearest the source area) showed little improvement.

More recent reports were not available. Copies of selected material from the above reports are included in Appendix D.

5.3.10 Other Historical Sources

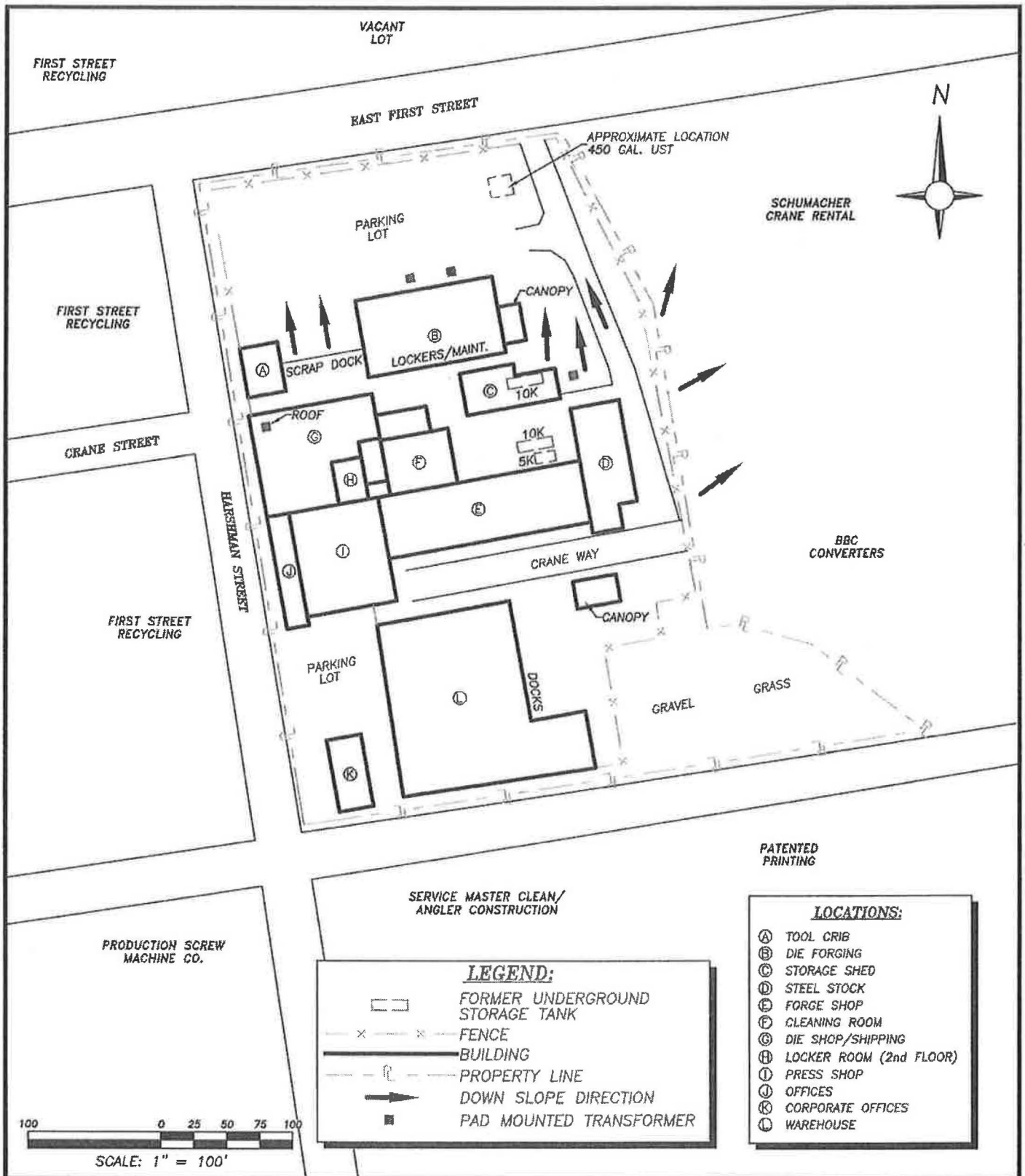
No other historical sources were reviewed.

5.3.11 Summary of Historical Land Use of the Site

The following table summarizes the findings of the research presented below pertaining to historical Site and surrounding area uses.

HISTORICAL USE SUMMARY				
Period	Identified Historical Uses		Source(s)	Intervals/Comments
	Property	Surrounding Area		
Prior to 1900	Residential Oil distribution Ice house	Residential Commercial Industrial	Historic Maps	Data failure: first recorded development is not documented
1900-1920	Foundries Boiler making	Residential Commercial Industrial	Historic Maps City Directories	Data failure: the southern portion of the Site is not documented by city directories
1920-1940	Metal forging	Residential Commercial Industrial	Historic Maps City Directories Aerial Photographs	
1940-1960	Metal forging	Residential Commercial Industrial	Historic Maps City Directories Aerial Photographs	
1961-1980	Metal forging	Commercial Industrial Public Utility	Historic Maps City Directories Aerial Photographs	
1981 to present	Metal forging vacant	Commercial Industrial Public Utility	Historic Maps City Directories Aerial Photographs	

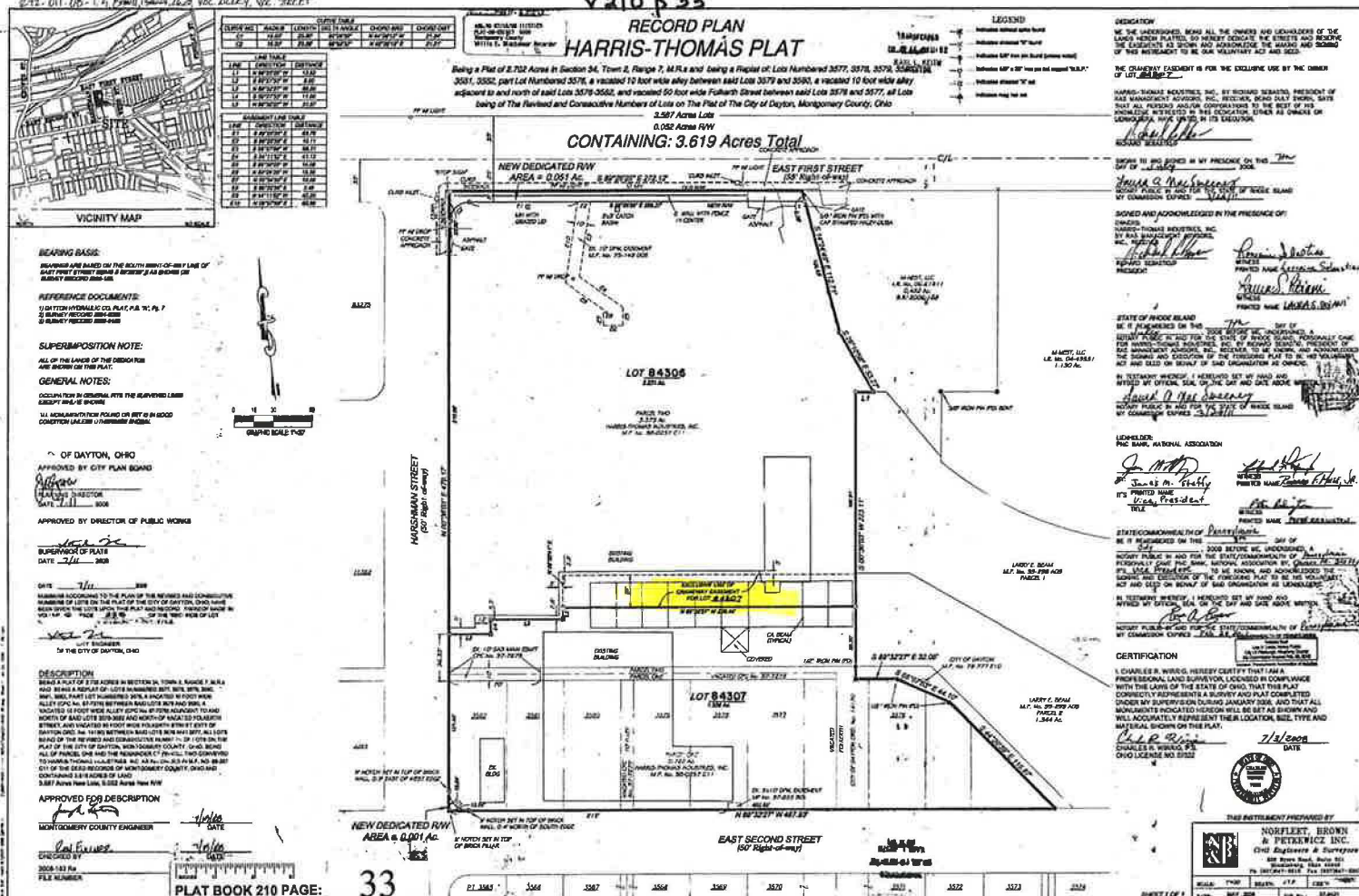
Data failures occurred during the historical record review: the first developed prior to 1898 was not documented and the southern portion of the Site is not documented by city directories for more than 5 years between 1898 and 1916. Historic maps indicate that southern portion was residential between 1898 and 1918. Land use was unlikely to have changed during the 20 year gap. Given that the Site is well documented for over 100 years, the lack of records prior to 1898 is not considered a *significant data gap*.



SITE PLAN

PHASE I ENVIRONMENTAL SITE ASSESSMENT
FORMER HARRIS-THOMAS DROP FORGE
1400 EAST FIRST STREET
DAYTON, OHIO

Project Number: 72.35163.0001	Dm. By: PJS
Drawing File: 72.35163.0001	Ckd. By: BN
Date: 6/2007	App'd By: ML
Scale: AS SHOWN	Figure: 2



Dayton, OH eGIS



Parcel ID	R72 01108 0029	Acreage	
Owner Name		Sales Date	
Name Cont		Sale Price	
Legal Address		Deed	
Address Cont		Tax Map	ra01108z.tif
Lot Number	84306	Site Address	View Multiple Site Addresses
KEY Parcel		MC Auditor	Property Details
Jurisdiction	Dayton	MC Treasurer	Tax Details
Tax Area	RA	Property Photo	Property Photo
Tax District	R72	Tax Map	Tax Map
MC Neighborhood		Google_Map	Google Map
Class		Bing_Birdseye_View	Bing Birdseye View
Landuse			

Disclaimer: Map and parcel data are believed to be accurate, but accuracy is not guaranteed. This is not a legal document and should not be substituted for a title search, appraisal, survey, or for zoning verification.

Map Scale
1 inch = 109 feet

5/4/2012

2
QUIT CLAIM DEED

①
RAS MANAGEMENT ADVISORS, INC., Receiver of the Property of Harris-Thomas Industries, Inc., an Ohio corporation ("Grantor"), by the power conferred by the Order Granting Receiver's Motion to Sell Real Property dated June 13, 2008 in the Court of Common Pleas of Montgomery County, Ohio, Case No. 07-4474, and every other power, for valuable consideration paid, grants to Ron Browning and Son, LLC, a(n) Ohio limited liability company, whose tax-mailing address is 79 E. Franklin Street, Bellbrook, Ohio 45305, the real property described on Exhibit A attached hereto and incorporated herein by reference.

Subject to all legal highways; building and zoning ordinances; easements, conditions and restrictions of record; and real estate taxes and assessments due and payable in December, 2008 and thereafter.

PRIOR DEED REFERENCE: MF 98-257C11 of the
Montgomery County, Ohio Deed Records.

Grantor has executed this instrument this 16th day of July, 2008.

HARRIS-THOMAS INDUSTRIES, INC.,
an Ohio corporation

By: RAS Management Advisors, Inc.,
a Rhode Island corporation

Its: Receiver

By: Richard A. Sebastiao
Richard A. Sebastiao, President

STATE OF New York, COUNTY OF Bronx, SS:

The foregoing instrument was acknowledged before me this 16 day of July, 2008, by Richard A. Sebastiao, President, of RAS Management Advisors, Inc., a Rhode Island corporation, Receiver of the Property of Harris-Thomas Industries, Inc., an Ohio corporation.

Maria A. Ratliff
Notary Public

MARIA A. RATLIFF
Notary Public - State of New York
No. 01RA6173475
Qualified in Bronx County
My Commission Expires August 27, 2011

This Instrument Prepared By:
Joshua M. Stolly, Esq.
Coolidge Wall Co., LPA
33 West First Street, Suite 600
Dayton, Ohio 45402

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\$28.00 08/12/08 08:07:17
DEED-08-057526 0002
Montgomery County
Willis E. Blackshear Recorder

EXHIBIT A

Legal Description

Situate in the City of Dayton, County of Montgomery and State of Ohio and being Lot Numbered 84307 of the consecutive numbers of lots on the revised plat of the said City of Dayton as recorded in the Harris-Thomas Plat recorded at Plat 08-051017 0000 of the Montgomery County Recorder's Office.

NO TRANSFER
12:16pm NOVEMBER 05, 2008
KARL L. TOR

FILED
COURT OF COMMON PLEAS
2008 JUN 13 PM 12:16
GREGORY A. BRUSH
CLERK OF COURTS
MONTGOMERY CO. OHIO
28

IN THE COURT OF COMMON PLEAS
MONTGOMERY COUNTY, OHIO

PNC BANK, NATIONAL ASSOCIATION) CASE NO. 07-4474
Plaintiff,) JUDGE TUCKER
VS.)
HARRIS-THOMAS INDUSTRIES, INC.)
et al.)
Defendant(s))

ORDER GRANTING RECEIVER'S MOTION TO SELL
REAL PROPERTY

RAS Management Advisors, Inc., the Court-Appointed Receiver in the captioned proceeding ("Receiver"), filed its Motion of Receiver to Sell Real Property (the "Motion") related to the following agreements:

A. Agreement dated November, 2007 between Receiver and Ron Browning for the sale of real estate described therein (the "Sale Property"). A copy of said Agreement is annexed as Exhibit A (the "Purchase Agreement").

B. Amendment to Purchase Agreement between Receiver and Ron Browning dated as of May 1, 2008 (the "Amendment"). A copy of said Amendment is annexed as Exhibit B.

The Purchase Agreement as referred to hereafter, shall include the Amendment unless otherwise indicated. The Motion seeks an Order authorizing the Receiver to Sell to Ron Browning for \$200,000 all of the Receiver's right, title and interest in and to the Sale Property, free and clear of liens, encumbrances, claims of creditors or third parties claiming any interest in the Sale Property with such liens, encumbrances, claims or interests, if any, to attach to the proceeds of sale, for authority to pay expenses of sale and all real property taxes accrued to the time of closing; to pay the commission due to DJM Realty Services LLC ("DJM") in accordance with the agreement between the Receiver and DJM; to pay normal and customary closing costs and to pay the balance of such proceeds to PNC Bank, National Association as holder of the first mortgage upon the Sale Property ("Bank").

THE COURT FINDS AS FOLLOWS:

1. This Court has jurisdiction in this matter pursuant to Section 2735.01 *et seq.* Ohio Revised Code. Pursuant to Section 2735.04 Ohio Revised Code and the Order for Appointment of Receiver entered by this Court on May 30, 2007, the Receiver is authorized to sell real estate of the Receivership.

2. In addition, this Court has the authority to approve a sale of the Sale Property free and clear of liens, claims and encumbrances, and to transfer the liens, claims and encumbrances to the proceeds derived from such sale.

3. All lien holders properly were served with notice of the Motion.

4. The Court approves the terms of the Purchase Agreement and approves the sale of the Sale Property free and clear of liens and encumbrances. The Sale Property has been marketed since the Receiver was appointed by this Court and the offer received is the best offer after reasonable arms-length negotiations between the Receiver and all interested purchasers.

The Court further finds that the Purchase Agreement is the best means to maximize the value of the Sale Property.

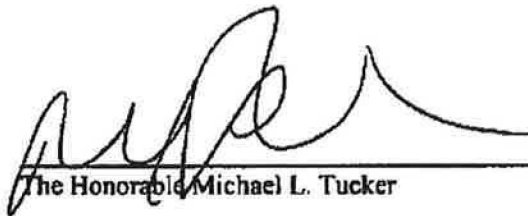
5. The Court further finds that the purchase price to be paid under the Purchase Agreement reflects a fair and reasonable price for the Sale Property. Without the Purchase Agreement, the Sale Property would be sold at judicial sale, requiring a minimum bid which undoubtedly would be less than the amount to be paid under the Purchase Agreement. The Court finds it is in the best interests of the Receivership estate for the Sale Property to be sold under the terms of the Purchase Agreement.

6. The Court further finds that the sale of the Sale Property shall be free and clear of all liens, claims and encumbrances (for purposes hereof, easements, covenants and restrictions of record which do not secure the repayment of money shall not be included as a lien, claim or encumbrance subject hereto). Accordingly, all such liens, claims or encumbrances which now exist or are hereafter placed of record prior to the date of sale on or against the Sale Property shall be, and they hereby are, extinguished as liens, claims and encumbrances against the Sale Property; rather, the liens, claims and encumbrances against the Sale Property will attach to the net proceeds of sale to be distributed by the Receiver after the expenses of sale to the payment of all real property taxes accrued at the time of closing; to pay the commission due DJM Realty Services LLC ("DJM") in accordance with the agreement between the Receiver and DJM; to pay normal and customary closing costs and to pay the balance of such proceeds to Bank.

7. The Court further finds pursuant to Civil Rule 54(B) that this is a final judgment and there is no just reason for delay.

IT IS SO ORDERED.

Dated: June 13, 2008


The Honorable Michael L. Tucker

cc: Service List (attached)

I hereby certify this to be a true
and correct copy.
Witness my hand and seal this 11/4 day of November, 2008.
Clerk of County of Travis
Court of Travis County
By  Deputy


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Dayton, OH 45402
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County Carolyn Rice*

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EXHIBIT A

PURCHASE AGREEMENT

RS THIS AGREEMENT, made and entered into at Dayton, Ohio, as of the 7th day of November, 2007, by and between Ron Browning or his successors and/or assigns (hereinafter called "Purchaser"), and Richard A. Sebastiao as Receiver for Harris Thomas Industries, Inc., (hereinafter called "Seller"). *MS*

RECITALS

Upon the terms and conditions contained herein, Purchaser hereby offers to purchase from Seller certain parcels of land and the improvements thereon (the "Property") situated in the City of Dayton, County of Montgomery, State of Ohio, known as Parcels R72-01108-0011, 0013, 0014, 0015, 0016, 0017, 0018, 0019, 0020, 0021, 0022, 0023, 0024, 0026, and 0028 and crosshatched on Exhibit A attached hereto and made a part hereof. The Property shall include all easements, rights and appurtenances thereto, provided that they have been approved by Purchaser, as provided below.

AGREEMENT

1. Purchase Price. The purchase price ("Purchase Price") of the Property shall be payable in cash at closing and shall be Two-Hundred Thousand Dollars (\$200,000.00) (exclusive of public road right of way, flood plain, floodway and wetlands) payable in full, less any payments made pursuant to Paragraph 6 below; and subject to adjustments as set forth in this Agreement, at closing and upon delivery of Seller's deed.

2. Quit Claim Deed. At the closing, Seller shall deliver to Purchaser a Quit Claim Deed conveying to Purchaser title to the Property in fee simple, subject to all easements, conditions, restrictions and limitations of record and all legal highways.

(a) It is expressly agreed to that Parcels R72-01108-0001, 0002, 0003, 0005, 0008, 0009, 0010, currently owned by Seller, are not to be conveyed to Purchaser. Seller will be responsible for all costs to create a new legal description. The new legal description is to be created consistent with paragraph 4 below. Because Parcels R72-01108-0001, 0002, 0003, 0005, 0008, 0009, 0010 are described in a metes and bounds description that also contains parcels to be conveyed to Purchaser, Seller remains responsible for paying all delinquent taxes including penalties and interest currently levied against the full 3.619 acre description.

3. Placement of North Boundary. This contract is conditional on the ability to create a new legal description to parcel number R72-01108-0011 so that the building encroaching on said parcel from parcel R72-01108-0008 is not conveyed to Purchaser.

(a) If the above lot split is prohibited by the controlling government entities or not approved by the Court or Trustee, an alternative lot split described as follows shall take place. In the alternative to the above referenced lot split, this contract is conditional on the

RS

ability to create a new legal description to parcel number R72-01108-0011 so that Parcel R72-01108-0011's North boundary line will run along the northern edge of the 15,000 square foot building and continue on said course by parallel lines. If neither lot split is approved, then at the option of either party, this contract will be terminated and will be of no further force or effect. In the event of termination all sums paid on account of the purchase price will be returned to purchaser, and purchaser will release and quitclaim all right and interest in property and each party will release the other from all further liability under this agreement.

4. Title. This Agreement shall be contingent upon a court order authorizing sale of the Property free and clear of liens.

(a) Upon execution of this Agreement, Purchaser shall order a commitment (the "Commitment") for an Owner's Policy of Title Insurance. Purchaser shall pay for all title insurance premiums, commitments, and endorsements.

(b) Following its receipt of the Commitment and the Survey (described below), Purchaser shall deliver to Seller written notice listing all conditions (if any) shown in the Commitment which are not acceptable to Purchaser and a list of any endorsement to the Policy which Purchaser determines may be reasonably necessary to protect Purchaser's interest ("Affirmative Title Requirements").

5. Earnest Money/Due Diligence. Upon execution of the Purchase Agreement, Purchaser shall deposit an earnest money deposit of \$20,000.00 with The Hallmark Title Agency, Inc. Upon conclusion of the Due Diligence period this deposit will be applied to the purchase price at closing. Otherwise, Seller shall retain all earnest money. Seller shall obtain a court order authorizing the sale of the Property free and clear of liens. In the event Seller does not obtain such an order, the earnest deposit is to be returned to the Purchaser.

Purchaser shall have Twenty (20) days (initial due diligence period) during which to complete its due diligence after acceptance and execution of a Purchase Agreement. Purchaser shall have the right to inspect the property and perform any studies at Purchaser's expense, with respect to structural, mechanical, regulatory, zoning, title and the items listed below in Paragraphs (a) through (f). ((a) through (g)) Purchaser pays for any/all inspections. A Phase I Environmental Report if conducted by Purchaser will be provided at Purchaser's expense. If Purchaser, after such investigation, in its sole discretion determines that the property is not satisfactory to Purchaser, Purchaser may terminate the, at contract in writing no later than the end of the due diligence period.

(a) Purchaser shall have satisfied itself that electricity, gas, water, telephone, sanitary sewer and storm drains (collectively, the "Utilities") are available to the boundaries of the Property, or Purchaser believes Utilities can be brought to the boundaries at a cost acceptable to the Purchaser in numbers and capacity sufficient to serve the Property for the retail development to be built thereon, and at locations and a cost acceptable to Purchaser; and

(b) Purchaser shall have satisfied itself that soil tests, environmental studies and engineering studies (including structural engineering) indicate the Property is suitable for the intended use; and

(c) Purchaser shall secure a zoning permit on the Property for the commercial use intended; and

(d) Purchaser shall have satisfied itself that the Property contains no wetlands or wetlands soil as defined by the Army Corps of Engineers and the Ohio Department of Natural Resources that would prevent the development of the Property as intended by the Purchaser; and

(e) Purchaser shall have received any and all other approvals, tests or requirements deemed necessary or appropriate by Purchaser to assure the commercially viable completion of the intended development of the Property; and

(f) Purchaser shall have satisfied itself through Phase I and Phase II environmental studies, if deemed necessary by Purchaser, that there are no environmental problems with the Property (the "Environmental Conditions").

6. Closing. The date of the closing of this transaction for the delivery to Seller of the balance of the purchase price and Seller's delivery to Purchaser of its deed in accordance with Paragraphs 1 and 2 shall be on a date established by mutual agreement of the parties, but in no event shall said date be less than five (5) days, nor more than thirty (30) days, following notification of the satisfaction or waiver of all of the Title, Survey and Development Conditions and all other contingencies contained herein. The date for the closing of this transaction described in the preceding sentence is herein referred to as the 'Closing Date'. Closing shall be held at the offices of The Hallmark Title Agency, Inc., 3040 Presidential Drive, Suite 222, Fairborn, Ohio 45324, or at such other place as Seller and Purchaser shall agree in writing.

7. Terms of Payment/ Taxes and Assessments. The purchase price, inclusive of any earnest money deposit, shall be paid in cash at closing. Each party will pay the normal closing costs including deed preparation, document recording, and transfer stamps, normally allocated to Buyer and Seller in accordance with local custom or law.

(a) At closing, seller shall pay or credit on the purchase price (1) all real estate taxes and assessments, including delinquencies, penalties and interest, which became due and payable prior to the closing, (2) a pro rata share in accordance with the Montgomery County "short pro-ration" method, in which Seller's share is based upon the number of days from the date of the immediately preceding semi-annual installment to the date of closing.

8. Inspections. At mutually agreed to times prior to the closing, Purchaser shall have the right to enter upon the Property to make topographic and boundary surveys, determine the location of utilities, perform engineering studies (including structural engineering) and conduct soil tests and borings, all to determine the suitability of the Property for Purchaser's use; provided that (a) all such work shall be done in a good, workmanlike manner, and shall

be at Purchaser's sole expense; (b) Purchaser shall restore the Property or any part thereof which it disturbs as near as practicable to its original condition; (c) Purchaser shall pay for any damages to the Property which it causes; and (d) Purchaser shall indemnify and hold harmless Seller from and against any and all claims, damages, liabilities or losses resulting from or arising in connection with any work or activities performed by Purchaser or its employees and agents pursuant to this Paragraph.

9. Notices. Any notice or other writing required or permitted to be given to a party under this Agreement shall be deemed given to a party under this Agreement upon receipt when hand delivered, or three (3) business days after mailing by United States Certified Mail, postage prepaid, return receipt requested, or one (1) business day after deposit with a recognized overnight delivery service for next day delivery, addressed as follows:

Seller(s): Richard A. Sebastiao
599 Ocean Avenue
Newport, RI 02840

Purchaser: Ron Browning
79 East Franklin Street
Bellbrook, OH 45305

Attn: _____
Title: _____

Attn: Ron Browning
Title: _____

With a copy to:
Ronald S. Pretkin, Esq.
Coolidge, Wall, Womsky &
Lombard
333 West First Street
Suite 600
Dayton, OH 45402-1289

With a copy to:
Alexander A. Arestides, Esq.
Hall & Mueller, LPA
3040 Presidential Drive
Suite 222
Fairborn, OH 45324

10. Cooperation of Seller. During the term of this Agreement, if Purchaser deems it necessary to obtain an approval or approvals from any governmental or quasi governmental authority to develop the Property, then Seller shall fully cooperate with Purchaser regarding such action. Seller shall execute such documents reasonably required to facilitate such action.

11. Brokers. Each party represents to the other that there is no broker or other person entitled to a commission or similar fee in connection with this transaction, except that Seller is to pay DJM a real estate commission pursuant to a listing agreement between DJM and Seller. Said Broker represents Purchaser in this transaction. Seller is not represented by a Broker in this transaction. Purchaser and Seller mutually covenant and agree to defend, indemnify and save harmless each other from and against any other claim for brokerage or other commissions, similar fees or compensation for any service rendered in connection with this transaction.

12. Binding Agreement. Upon execution by the parties, this instrument shall constitute a binding contract between the Seller and Purchaser and shall be binding upon and inure to the benefit of the respective successors and assigns of Seller and Purchaser. This contract is herein referred to as "this Agreement". Should Purchaser assign its rights under this

4 *RS*

Agreement, it will furnish Seller with an executed copy of the assignment and thereafter the word "Purchaser" as used in this Agreement shall be deemed to mean the Assignee.

13. Survey. This Agreement shall also be contingent upon Purchaser's receipt of a satisfactory survey of the Property. ~~See attached Recorded Plat file stamped~~ **AB**
If Purchaser objects to any matter in the survey, Seller, at its option, may agree to clear such matters as required by Purchaser. If the Seller elects not to clear a matter that clouds the marketability of title, Seller shall return Purchaser's earnest deposit to Purchaser and this contract shall be void and of no effect.

14. Reports. Within ten (10) days after the execution of this Agreement, Seller shall deliver to Purchaser copies of all existing title insurance policies, surveys, and engineering studies (including environmental reports, soil tests, etc.), relating to the Property which are either in Seller's possession or available to Seller.

15. Miscellaneous.

(a) Seller and Purchaser acknowledge and agree that in the event of a breach by either party, either may cancel and terminate this Agreement whereupon the non-breaching party shall be entitled to the Earnest Money. Seller and Purchaser acknowledge and agree that the sole remedy, in the event of default of either party, shall be to retain the Earnest Money as liquidated damages.

(b) Seller and Purchaser represent and warrant to each other that the individuals who have executed this Agreement are fully authorized to execute this Agreement.

(c) Seller represents there are no actions, suits, or proceedings pending or threatened against the Seller with respect to the premises or affecting any of its rights with relation to the premises, at law or in equity, or before any federal, state, municipal, or other governmental agency, nor is Seller aware of any facts which, to his or her knowledge, might result in any action, suit or proceeding.

16. Condemnation. If, prior to Closing, part or all of the Property shall be taken (or if such taking is threatened) by any governmental authority or other authority under its power of eminent domain, Seller shall give notice thereof to Purchaser and Purchaser shall have the options specified below, to be exercised by written notice to Seller not later than thirty (30) days after Purchaser receives written notice from Seller of such taking. Such notice shall fully describe the area to be taken and shall include any offers for the acquisition of the same. Purchaser's options in such event shall be:

(a) to take title to the Property at Closing without any adjustments in the Purchase Price, in which event Seller shall assign its rights in the condemnation award to Purchaser (or the Purchaser shall receive the condemnation award from the Seller if it has already been paid before Closing); or

(b) to cancel this Agreement, whereupon the Earnest Money shall be refunded to Purchaser, and neither Seller nor Purchaser shall have any continuing obligation one unto the other hereunder.

5 **AB**

17. Like-Kind Exchange - Purchaser.

(i) Purchaser and Seller agree that Purchaser may assign this Agreement without the prior written consent of Seller to an intermediary to act in place of Purchaser as the Purchaser of the Property to effect a like-kind exchange under Section 1031 of the Internal Revenue Code of 1986, as amended, and the Treasury Regulations thereunder (a "Like-Kind Exchange"). The assignment shall be made in writing by Purchaser. Upon assignment of this Agreement to an intermediary and that intermediary's written assumption of Purchaser's obligations, the Purchaser's intermediary shall be substituted for Purchaser for all purposes under this Agreement and any related agreements as the Purchaser of the Property. Seller agrees to accept the consideration and all other required performance under this Agreement and any reasonable escrow instructions that are not contrary to the terms hereof from Purchaser's intermediary and to render its performance of all its obligations to Purchaser's intermediary. Seller agrees that performance by Purchaser's intermediary will be treated as performance to Purchaser. In the event that Purchaser assigns to an intermediary, Purchaser shall unconditionally guarantee the full and timely performance by Purchaser's intermediary of each and every one of the representations, warranties, indemnities, obligations and undertakings of Purchaser's intermediary pursuant to this Agreement and any escrow instructions (or amendments). Seller agrees that any representations, warranties (whether explicit or implied), indemnities, obligations and undertakings that it makes to Purchaser or Purchaser's intermediary in connection with this transaction shall be treated as made directly to Purchaser and shall be fully enforceable by Purchaser, notwithstanding Purchaser's assignment to an intermediary.

(ii) All expenses and costs paid by Seller in connection with Purchaser's attempt to structure a Like-Kind Exchange shall be paid by Purchaser, provided such expenses are approved by Purchaser in advance.

(iii) Seller makes no representation or warranty that the transaction contemplated by Purchaser will qualify as a Like-Kind Exchange, and Seller shall not be liable to Purchaser or any other party in the event that Purchaser elects not to, or fails to, effect a Like-Kind Exchange, unless Seller shall act contrary to express written instructions of Purchaser. Seller shall be indemnified and held harmless from any cost, loss, expense, claim or liability arising out of or in any way related to Seller complying with the terms of this Paragraph or to the written instructions received from the Purchaser.

18. This Agreement constitutes the entire Agreement between Seller and Purchaser and no amendment or modification of this Agreement may be made, except by an instrument in writing signed by both parties.

19. Parties agree that the laws of the State of Ohio shall apply to this contract.

SELLER:

By:

M. David Miller
Receiver for Harris Thomas Industries, Inc.

Date:

12-7-07

PURCHASER:

By:

Ron R. Roney

Date:

12-6-07

101900962.2

EXHIBIT B

AMENDMENT TO PURCHASE AGREEMENT

This AMENDMENT TO PURCHASE AGREEMENT ("Amendment") is made and entered into as of the 1st day of May, 2008, by and between Ron Browning or his successors and/or assigns (hereinafter called "Purchaser"), and Richard A. Sebastiao as Receiver for Harris Thomas Industries, Inc. (hereinafter called "Seller").

RECITALS

The Purchaser and Seller entered into the Purchase Agreement dated November, 2007 regarding the sale of certain parcels of property situated in the City of Dayton and located at the corner of Harshmann and Second Streets. The parties now wish to amend that Agreement as stated below.

AGREEMENT

1. The parties agree that the parcel will be split pursuant to the lines shown on the drawing attached hereto as Exhibit A or within a relatively close proximity thereto to comply with the decision of the Board of Building Appeals and Planning Commission of the City of Dayton. The Seller will also provide a permanent exclusive easement to Purchaser as needed to allow Purchaser full use of all of the crane way to the extent that part of the crane way is not included within the property to be transferred.
2. The due diligence items contained in Paragraph 5 of the Purchase Agreement have been waived by the Purchaser. A portion of the earnest money deposit, in the amount to reimburse the costs to effect the above referenced parcel split, with current expenses to date shown on Exhibit B, will be transferred to Seller at this time, with the reservation that the earnest money deposit will be refunded to Purchaser only in the event the lot split as contemplated above cannot be completed.
3. Except as amended hereby, the Purchase Agreement is hereby ratified and affirmed.

IN WITNESS WHEREOF, the parties have executed the Amendment as shown below.

SELLER:

Harris Thomas Industries, Inc.

By: 

Richard A. Sebastiao

Its: Receiver

PURCHASER:

Ron Browning 4-30-08
Ron Browning

EXHIBIT A

EXHIBIT B

Surveyor - Norfleet Brown and Pedkewicz	\$3,850
Architect - Brown & Blis	1,815
Lawyer - Coolidge Wall	3,204
TOTAL	\$8,869

EXHIBIT A

Situate in the City of Dayton, County of Montgomery and State of Ohio and being Lot Numbered 84307 of the consecutive numbers of lots on the revised plat of the said City of Dayton as recorded in the Harris-Thomas Plat recorded at Plat 08-051017 0000 of the Montgomery County Recorder's Office.